

JUANITO MARIANO, JR., ET AL., PETITIONERS, VS. THE COMMISSION ON ELECTIONS, THE MUNICIPALITY OF MAKATI, HON. JEJOMAR BINAY, THE MUNICIPAL TREASURER, AND SANGGUNIANG BAYAN OF MAK...

G.R. No. 118577. March 07, 1995

Ponente: PUNO, J.

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PUNO, J.:

At bench are two (2) petitions assailing certain provisions of Republic Act No. 7854 as unconstitutional. R.A. No. 7854 is entitled, “An Act Converting the Municipality of Makati Into a Highly Urbanized City to be known as the City of Makati.” [1]

G.R. No. 118577 involves a petition for prohibition and declaratory relief. It was filed by petitioners Juanito Mariano, Jr., Ligaya S. Bautista, Teresita Tibay, Camilo Santos, Frankie Cruz, Ricardo Pascual, Teresita Abang, Valentina Pitalvero, Rufino Caldoza, Florante Alba, and Perfecto Alba. Of the petitioners, only Mariano, Jr., is a resident of Makati. The others are residents of Ibayo Ususan, Taguig, Metro Manila. Suing as taxpayers, they assail as unconstitutional sections 2, 51, and 52 of R.A. No. 7854 on the following grounds:

“1. Section 2 of R.A. No. 7854 did not properly identify the land area or territorial jurisdiction of Makati by metes and bounds, with technical descriptions, in violation of Section 10, Article X of the Constitution, in relation to Sections 7 and 450 of the Local Government Code;

2. Section 51 of R.A. No. 7854 attempts to alter or restart the ‘three-consecutive term’ limit for local elective officials, in violation of Section 8, Article X and Section 7, Article VI of the Constitution.

3. Section 52 of R.A. No. 7854 is unconstitutional for:

(a) it increased the legislative district of Makati only by special law (the Charter in violation of the constitutional provision requiring a general reapportionment law to be passed by Congress within three (3) years following the return of every census;

(b) the increase in legislative district was not expressed in the title of the bill; and

(c) the addition of another legislative district in Makati is not in accord with Section 5 (3), Article VI of the Constitution for as of the latest survey (1990 census), the population of Makati stands at only 450,000.”

G.R. No. 118627 was filed by petitioner John H. Osmeña as senator, taxpayer, and concerned citizen. Petitioner assails section 52 of R.A. No. 7854 as unconstitutional on the same grounds as aforesated.

We find no merit in the petitions.

I

Section 2, Article I of R.A. No. 7854 delineated the land area of the proposed city of Makati, thus:

“SEC. 2. The City of Makati. - The Municipality of Makati shall be converted into a highly urbanized city to be known as the City of Makati, hereinafter referred to as the City, which shall comprise the present territory of the Municipality of Makati in Metropolitan Manila Area over which it has jurisdiction bounded on the northeast by Pasig River and beyond by the City of Mandaluyong and the Municipality of Pasig; on the southeast by the municipalities of Pateros and Taguig; on the southwest by the City of Pasay and the Municipality of Taguig; and, on the northwest, by the City of Manila.

The foregoing provision shall be without prejudice to the resolution by the appropriate agency or forum of existing boundary disputes or cases involving questions of territorial jurisdiction between the City of Makati and the adjoining local government; units.” (Underscoring supplied)

In G.R. No. 118577, petitioners claim that this delineation violates sections 7 and 450 of the Local Government Code which require that the area of a local government unit should be made by metes and bounds, with technical descriptions. [2]

The importance of drawing with precise strokes the territorial boundaries of a local unit of government cannot be overemphasized. The boundaries must be clear for they define the limits of the territorial jurisdiction of a local government unit. It can legitimately exercise powers of government only within the limits of its territorial jurisdiction. Beyond these limits, its acts are ultra vires. Needless to state, any uncertainty in the boundaries of local government units will sow costly conflicts in the exercise of governmental powers which ultimately will prejudice the people's welfare. This is the evil sought to be avoided by the Local Government Code in requiring that the land area of a local government unit must be spelled out in metes and bounds, with technical descriptions.

Given the facts of the cases at bench, we cannot perceive how this evil can be brought about by the description made in section 2 of R.A. No. 7854. Petitioners have not demonstrated that the delineation of the land area of the proposed City of Makati will cause confusion as to its boundaries. We note that said delineation did not change even by an inch the land area previously covered by Makati as a municipality. Section 2 did not add, subtract, divide, or multiply the established land area of Makati. In language that cannot be any clearer, section 2 stated that the city's land area “shall comprise the present territory of the municipality.”

The deliberations of Congress will reveal that there is a legitimate reason why the land area of the proposed City of Makati was not defined by metes and bounds, with technical descriptions. At the time of the consideration of R.A. No. 7854, the territorial dispute between the municipalities of Makati and Taguig over Fort Bonifacio was under court litigation. Out of a becoming sense of respect to a co-equal department of government, the legislators felt that the dispute should be left to the courts to decide. They did not want to foreclose the dispute by making a legislative finding of fact which could decide the issue. This would have ensued if they defined the land area of the proposed city by its exact metes and bounds, with technical descriptions. [3] We take judicial notice of the fact that Congress has also refrained from using the metes and bounds description of land areas of other local government units with unsettled boundary disputes. [4]

We hold that the existence of a boundary dispute does not per se present an insurmountable difficulty which will prevent Congress from defining with reasonable certitude the territorial jurisdiction of a local government unit. In the cases at bench, Congress maintained the existing boundaries of the proposed City of Makati but as an act of fairness, made them subject to the ultimate resolution by the courts. Considering these peculiar circumstances, we are not prepared to hold that section 2 of R.A. No. 7854 is unconstitutional. We sustain the submission of the Solicitor General in this regard, viz:

“Going now to Sections 7 and 450 of the Local Government Code, it is beyond cavil that the requirement stated therein, viz: ‘the territorial jurisdiction of newly created or converted cities should be described by metes and bounds, with technical descriptions’ - was made in order to provide a means by which the area of said cities may be reasonably ascertained. In other words, the requirement on metes and bounds was meant merely as tool in the establishment of local government units. It is not an end in itself. Ergo, so long as the territorial jurisdiction of a city may be reasonably ascertained, i.e., by referring to common boundaries with neighboring municipalities, as in this case, then, it may be concluded that the legislative intent behind the law has been sufficiently served.

Certainly, Congress did not intend that laws creating new cities must contain therein detailed technical descriptions similar to those appearing in Torrens titles, as petitioners seem to imply. To require such description in the law as a condition sine qua non for its validity would be to defeat the very purpose which the Local Government Code seeks to serve. The manifest intent of the Code is to empower local government units and to give them their rightful due. It seeks to make local governments more responsive to the needs of their constituents while at the same time serving as a vital cog in national development. To invalidate R.A. No. 7854 on the mere ground that no cadastral type of description was used in the law would serve the letter but defeat the spirit of the Code. It then becomes a case of the master serving the slave, instead of the other way around. This could not be the intendment of the law.

Too well settled is the rule that laws must be enforced when ascertained, although it may not be consistent with the strict letter of the statute. Courts will not follow the letter of the statute when to do so would depart from the true intent of the legislature or would otherwise yield conclusions inconsistent with the general purpose of the act (Torres v. Limjap, 56 Phil., 141; Tañada v. Cuenco, 103 Phil. 1051; Hidalgo v. Hidalgo, 33 SCRA 1105). Legislation is an active instrument of government which, for purposes of interpretation, means that laws have ends to achieve, and statutes should be so construed as not to defeat but to carry out such ends and purposes (Bocobo v. Estanislao, 72 SCRA 520). The same rule must indubitably apply to the case at bar.”

II

Petitioners in G.R. No. 118577 also assail the constitutionality of section 51, Article X of R.A. No. 7854. Section 51 states:

“SEC. 51. Officials of the City of Makati. - The present elective officials of the Municipality of Makati shall continue as the officials of the City of Makati and shall exercise their powers and functions until such time that a new election is held and the duly elected officials shall have already qualified and assume their offices: Provided, The new city will acquire a new corporate existence. The appointive officials and employees of the City shall likewise continue exercising their functions and duties and they shall be automatically absorbed by the city government of the City of Makati.”

They contend that this section collides with section 8, Article X and section 7, Article VI of the Constitution which provide:

“SEC. 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

x x x x x x x x

SEC. 7. The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

No Member of the House of Representatives shall serve for more than three consecutive terms. Voluntary

renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.”

Petitioners stress that under these provisions, elective local officials, including Members of the House of Representatives, have a term of three (3) years and are prohibited from serving for more than three (3) consecutive terms. They argue that by providing that the new city shall acquire a new corporate existence, section 51 of R.A. No. 7854 restarts the term of the present municipal elective officials of Makati and disregards the terms previously served by them. In particular, petitioners point that section 51 favors the incumbent Makati mayor, respondent Jejomar Binay, who has already served for two (2) consecutive terms. They further argue that should Mayor Binay decide to run and eventually win as city mayor in the coming elections, he can still run for the same position in 1998 and seek another three-year consecutive term since his previous three-year consecutive term as municipal mayor would not be counted. Thus, petitioners conclude that said section 51 has been conveniently crafted to suit the political ambitions of respondent Mayor Binay.

We cannot entertain this challenge to the constitutionality of section 51. The requirements before a litigant can challenge the constitutionality of a law are well-delineated. They are: (1) there must be an actual case or controversy; (2) the question of constitutionality must be raised by the proper party; (3) the constitutional question must be raised at the earliest possible opportunity; and (4) the decision on the constitutional question must be necessary to the determination of the case itself. [5]

Petitioners have far from complied with these requirements. The petition is premised on the occurrence of many contingent events, i.e., that Mayor Binay will run again in this coming mayoralty elections; that he would be re-elected in said elections; and that he would seek re-election for the same post in the 1998 elections. Considering that these contingencies may or may not happen, petitioners merely pose a hypothetical issue which has yet to ripen to an actual case or controversy. Petitioners who are residents of Taguig (except Mariano) are not also the proper parties to raise this abstract issue. Worse, they hoist this futuristic issue in a petition for declaratory relief over which this Court has no jurisdiction.

III

Finally, petitioners in the two (2) cases at bench assail the constitutionality of section 52, Article X of R.A. No. 7854. Section 52 of the Charter provides:

“SEC. 52. Legislative Districts. - Upon its conversion into a highly-urbanized city, Makati shall thereafter have at least two (2) legislative districts that shall initially correspond to the two (2) existing districts created under Section 3(a) of Republic Act No. 7166 as implemented by the Commission on Elections to commence at the next national elections to be held after the effectivity of this Act. Henceforth, barangays Magallanes, Dasmariñas, and Forbes shall be with the first district, in lieu of Barangay Guadalupe-Viejo which shall form part of the second district.” (underscoring supplied)

They contend that the addition of another legislative district in Makati is unconstitutional for: (1) reapportionment [6] cannot be made by a special law; (2) the addition of a legislative district is not expressed in the title of the bill; [7] and (3) Makati's population, as per the 1990 census, stands at only four hundred fifty thousand (450,000).

These issues have been laid to rest in the recent case of *Tobias v. Abalos*. [8] In said case, we ruled that reapportionment of legislative districts may be made through a special law, such as in the charter of a new city. The Constitution [9] clearly provides that Congress shall be composed of not more than two hundred fifty (250) members, unless otherwise fixed by law. As thus worded, the Constitution did not preclude Congress from increasing its membership by passing a law, other than a general reapportionment law. This is exactly what was done by Congress in enacting R.A. No. 7854 and providing for an increase in Makati's legislative district.

Moreover, to hold that reapportionment can only be made through a general apportionment law, with a review of all the legislative districts allotted to each local government unit nationwide, would create an inequitable situation where a new city or province created by Congress will be denied legislative representation for an indeterminate period of time. [10] That intolerable situation will deprive the people of a new city or province a particle of their sovereignty. [11] Sovereignty cannot admit of any kind of subtraction. It is indivisible. It must be forever whole or it is not sovereignty.

Petitioners cannot insist that the addition of another legislative district in Makati is not in accord with section 5(3), Article VI [12] of the Constitution for as of the latest survey (1990 census), the population of Makati stands at only four hundred fifty thousand (450,000). [13] Said section provides, inter alia, that a city with a population of at least two hundred fifty thousand (250,000) shall have at least one representative. Even granting that the population of Makati as of the 1990 census stood at four hundred fifty thousand (450,000), its legislative district may still be increased since it has met the minimum population requirement of two hundred fifty thousand (250,000). In fact, section 3 of the Ordinance appended to the Constitution provides that a city whose population has increased to more than two hundred fifty thousand (250,000) shall be entitled to at least one congressional representative. [14]

Finally, we do not find merit in petitioners' contention that the creation of an additional legislative district in Makati should have been expressly stated in the title of the bill. In the same case of *Tobias v. Abalos*, op cit, we reiterated the policy of the Court favoring a liberal construction of the "one title-one subject" rule so as not to impede legislation. To be sure, the Constitution does not command that the title of a law should exactly mirror, fully index, or completely catalogue all its details. Hence, we ruled that "it should be sufficient compliance if the title expresses the general subject and all the provisions are germane to such general subject."

WHEREFORE, the petitions are hereby DISMISSED for lack of merit. No costs.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Romero, Bellosillo, Melo, Quiason, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

Davide, Jr., J., see concurring opinion.

[1] R.A. No. 7854 is a consolidation of House Bill No. 12240 sponsored by Congressman Joker Arroyo and Senate Bill No. 1244 sponsored by Senator Vicente Sotto III.

[2] "SECTION 7. Creation and Conversion. - As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:

x x x xxx xxx

‘(c) Land Area. - It must be contiguous, unless it comprises two (2) or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).’

x x x xxx xxx

SECTION 450. Requisites for Creation. - x x x

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. x x x"

[3] August 18, 1994, Senate Deliberations on H.B. No. 12240, pp. 23-28.

[4] Ibid, citing as example the City of Mandaluyong.

[5] *Dumlao v. COMELEC*, 95 SCRA 392 (1980); Cruz, *Constitutional Law*, 1991 ed., p. 24.

[6] Section 5(4), Article VI of the Constitution provides:

"(4) Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section."

[7] Section 26(1), Article VI of the Constitution provides:

"Sec. 26 (1) Every bill passed by the Congress shall, embrace only one subject which shall be expressed in the title thereof."

[8] G.R. No. 114783, December 8, 1994.

[9] Section 5(1), Article VI.

[10] In this connection, we take judicial notice of the fact that since 1986 up to this time, Congress has yet to pass a general reapportionment law.

[11] Section 1, Article II provides that "The Philippines is a democratic and republican state. Sovereignty resides in the people and all government authority emanate from them."

[12] "SEC. 5. x x x

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative."

x x x xxx xxx

[13] As per the certificate issued by Administrator Tomas Africa of the National Census and Statistics Office, the population of Makati as of 1994 stood at 508,174; August 4, 1994, Senate Deliberations on House Bill No. 12240 (converting Makati into a highly urbanized city), p. 15.

[14] Sec. 3 provides: "Any province that may hereafter be created, or any city whose population may hereafter increase to more than two hundred fifty thousand shall be entitled in the immediately following election to at least one Member or such number of Members as it may be entitled to on the basis of the number of its inhabitants and according to the standards set forth in paragraph (3), Section 5 of Article VI of the Constitution. The number of Members apportioned to the province out of which such new province was created or where the city, whose population has so increased, is geographically located shall be correspondingly adjusted by the Commission on Elections but such adjustment shall not be made within one hundred, and twenty days before the election."

CONCURRING OPINION

DAVIDE, JR., J.:

I concur in the well-written opinion of Mr. Justice Reynato S. Puno. I wish, however, to add a few observations.

I.

Section 10, Article X of the Constitution provides that "[n]o province, city, municipality or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to the approval by a majority of the votes cast in a plebiscite in the political units directly affected." These criteria are now set forth in Section 7 of the Local Government Code of 1991 (R.A. No. 7160). One of these is that the territorial jurisdiction of the local government unit to be created or converted should be properly identified by metes and bounds with technical descriptions.

The omission of R.A. No. 7854 (An Act Converting the Municipality of Makati Into a Highly Urbanized City to be Known as the City of Makati) to describe the territorial boundaries of the city by metes and bounds does not make R.A. No. 7854 unconstitutional or illegal. The Constitution does not provide for a description by metes and bounds as a condition sine qua non for the creation of a local government unit or its conversion from one level to another. The criteria provided for in Section 7 of R.A. No. 7854 are not absolute, for, as a matter of fact, the section starts with the clause "as a general rule." The petitioners' reliance on Section 450 of R.A. No. 7160 is unavailing. Said section only applies to the conversion of a municipality or a cluster of barangays into a COMPONENT CITY, not a highly urbanized city. It pertinently reads as follows:

"SEC. 450. Requisite for creation. — (a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of at least Twenty million pesos (P20,000,000.00) for the last two (2) consecutive years based on 1991 constant prices, and if it has either of the following requisites:

x x x

(b) The territorial jurisdiction of a newly created city shall be properly identified by metes and bounds. x x x"

The Constitution classifies cities as either highly urbanized or component. Section 12 of Article X thereof provides:

"SEC. 12. Cities that are highly urbanized, as determined by law, and component cities whose charters prohibit their voters from voting for provincial elective officials, shall be independent of the province. The voters of component cities within a province, whose charters contain no such prohibition, shall not be deprived of their right to vote for elective provincial officials."

And Section 451 of R.A. No. 7160 provides:

"SEC. 451. Cities Classified. -- A city may either be component or highly urbanized: Provided, however, That the criteria established in this Code shall not affect the classification and corporate status of existing cities.

Independent component cities are those component cities whose charters prohibit their voters from voting for provincial elective officials. Independent component cities shall be independent of the province."

II.

Strictly speaking, the increase in the number of legislative seats for the City of Makati provided for in R.A. No. 7854 is not an increase justified by the clause unless otherwise fixed by law in paragraph 1, Section 5, Article VI of the Constitution. That clause contemplates of the reapportionment mentioned in the succeeding paragraph (4) of the said Section which reads in full as follows:

"Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section."

In short, the clause refers to a general reapportionment law.

The increase under R.A. No. 7854 is a permissible increase under Sections 1 and 3 of the Ordinance appended to the Constitution which reads:

"SEC. 1. For purposes of the election of Members of the House of Representatives of the First Congress of the Philippines under the Constitution proposed by the 1986 Constitutional Commission and subsequent elections, and until otherwise provided by law, the Members thereof shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila Area as follows:

METROPOLITAN MANILA AREA

x x x xxx xxx

MAKATI, one (1)

x x x xxx xxx

SEC. 3. Any province that may hereafter be created, or any city whose population may hereafter increase to more than two hundred fifty thousand shall be entitled in the immediately following election to at least one Member or such number of Members as it may be entitled to on the basis of the number of its inhabitants and according to the standards set forth in paragraph (3), Section 5 of Article VI of the Constitution. The number of Members apportioned to the province out of which such new province was created, or where the city, whose population has so increased, is geographically located shall be correspondingly adjusted by the Commission on Elections but such adjustment shall not be made within one hundred and twenty days before the election." (Emphases supplied)

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